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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Lisa Wilson-Foley for Congress, *et al.* )

THIRD GENERAL COUNSEL'S REPORT

I. ACTIONS RECOMMENDED

For the reasons discussed below, we recommend that the Commission: (1) find reason to believe Brian Foley knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions in the names of four individuals; (2) find reason to believe Brian Foley violated 52 U.S.C. § 30116(a) by giving Lisa Wilson-Foley \$500,000 to contribute to her campaign; (3) find reason to believe Lisa Wilson-Foley, in her individual capacity, and Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in her official capacity as treasurer (the "Committee") violated 52 U.S.C. § 30116(f) by accepting the same \$500,000 and that the Committee also violated 52 U.S.C. § 30104(b) by failing to properly report the receipt; and (4) approve the attached Factual and Legal Analyses and enter into pre-probable cause conciliation with Brian Foley, Lisa Wilson-Foley, and the Committee.

II. BACKGROUND

This matter initially concerned a \$35,000 in-kind contribution from Brian Foley to Lisa Wilson-Foley, his spouse, and the Committee,<sup>1</sup> in the form of payments to former Connecticut Governor John Rowland for consulting services he provided to the Committee during the 2012 election cycle.

<sup>1</sup> Wilson-Foley was a candidate for the U.S. House of Representatives in Connecticut's Fifth Congressional District in 2012. Wilson-Foley lost the August 14, 2012 Republican primary election. Wilson-Foley was named as treasurer of the Committee on April 14, 2014. *See* Amended Statement of Org., Lisa Wilson-Foley for Congress (Apr. 14, 2014).

1 In the course of related criminal proceedings, Foley and Wilson-Foley pleaded guilty to  
2 conspiring to make and accept excessive in-kind contributions with the intention that the purpose  
3 of the contributions — to pay Rowland for campaign work — would not be disclosed.<sup>2</sup>  
4 Following the conclusion of the criminal proceedings, the Commission found reason to believe  
5 the Committee knowingly and willfully violated 52 U.S.C. §§ 30116(f) and 30104(b) by  
6 accepting and failing to report excessive in-kind contributions of \$35,000 in payments to  
7 Rowland.<sup>3</sup>

8 After the Commission's reason to believe finding, OGC obtained  
9  
10 Foley's sworn testimony at Rowland's trial detailed  
11 conduct previously unknown to the Commission, including: (1) Foley's reimbursement of four  
12 individuals for contributions to the Committee; (2) a \$500,000 contribution Foley made to  
13 Wilson-Foley from separately held assets for the purpose of contributing to her campaign; and

<sup>2</sup> This activity was the subject of a criminal investigation conducted by the U.S. Attorney's Office for the District of Connecticut ("DOJ"). On March 31, 2014, Wilson-Foley and Foley each entered a guilty plea to a single misdemeanor count of conspiracy to violate 2 U.S.C. §§ 30116(a)(1)(A) and 30109(d)(1)(A)(ii), in violation of 18 U.S.C. § 371, in connection with Foley's payments to Rowland. Stipulation of Offense Conduct, *United States v. Wilson-Foley*, No. 3:14-CR-65 (D. Conn. Mar. 31, 2014); Stipulation of Offense Conduct, *United States v. Foley*, No. 3:14-CR-65 (D. Conn. Mar. 31, 2014). Wilson-Foley was sentenced to five months in prison, one year probation and a \$20,000 fine and Foley was sentenced to three months in a halfway house, three years probation, and a \$30,000 fine. Rowland was convicted at trial for his involvement and sentenced to 30 months in prison, though is currently appealing his case.

<sup>3</sup> See Certification, MUR 6566 (Jul. 20, 2015); Factual and Legal Analysis (Lisa Wilson-Foley for Congress). At the same time, the Commission took no action as to respondents Rowland or Apple Health Care, Inc., the Foley-owned entity that allegedly served as the source of the funds paid to Rowland. See Second GCR at 1-4, MUR 6566; Certification, MUR 6566 (Jul. 20, 2015). Information developed in the course of the criminal proceedings indicated that the payments to Rowland came from Foley personally and not Apple Health. Stipulation of Offense Conduct, *Foley*, No. 3:14-CR-65 (D. Conn. Mar. 31, 2014). We make no further recommendations as to either Rowland or Apple Health at this time.

(3) Foley's involvement in contributions to the Committee attributed to three of his children. Based on this information, which is discussed in detail below, OGC notified Wilson-Foley and Foley as respondents in their individual capacities and gave each the opportunity to respond.<sup>5</sup> Both individuals responded after substantial extensions, for which they provided agreements tolling of the statute of limitations.<sup>6</sup>

### III. FACTUAL AND LEGAL ANALYSIS

#### A. Foley Knowingly and Willfully Violated 52 U.S.C. §§ 30116(a) and 30122 by Reimbursing Four Individuals for Contributions to the Committee

The available information indicates that Foley reimbursed campaign contributions made by four individuals: (1) his sister and employee, Patricia Hyypa; (2) his niece, Patricia's daughter, Johanna Hyypa; (3) his nephew and employee, Jeremy Vearil; and (4) his childhood friend and employee, Kenneth Lewis. According to the Committee's disclosure reports, the Hyypas, Vearil, and Lewis each contributed the maximum \$2,500 to the Committee for the nominating convention and the primary and general elections, resulting in total contributions of \$7,500 per person.<sup>8</sup> Foley told investigators that he gave these individuals the money to make contributions to the Committee.

<sup>5</sup> See Memorandum to the Commission, MUR 6566 (Oct. 16, 2015); Certification, MUR 6566 (Oct. 29, 2015); Notification to Brian Foley, MUR 6566 (Nov. 5, 2015); Notification to Lisa Wilson-Foley, MUR 6566 (Nov. 5, 2015). OGC received tolling from the Committee for a commensurate period of time.

<sup>6</sup> Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Wilson-Foley) (Dec. 20, 2015) (tolling the statute of limitations for 120 calendar days); Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Foley) (Dec. 22, 2015) (same); Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Lisa Wilson-Foley for Congress) (Feb. 16, 2016) (same).

<sup>8</sup> See Appendix, Attachment 1 to this Report. In Connecticut, parties hold nominating conventions prior to the primary and general elections. Thus, in 2012, when the applicable contribution limit was \$2,500 per election, the maximum contribution per person was \$7,500. With respect to the Hyypas, Vearil, and Lewis, the \$2,500 contributed for the general election was refunded after Wilson-Foley lost the primary election.

1           Foley later testified for the government at Rowland's trial and was asked about the four  
2 contributions. He testified that he had "understandings" with the Hyypas, Vearil, and Lewis,  
3 promising to reimburse each of them if they made contributions to the Committee.<sup>10</sup> With  
4 respect to Lewis, for example, Foley told the court, "I had an understanding that if he donated to  
5 Lisa's campaign that I would make good on it. . . . In some way reimburse him for it."<sup>11</sup> He  
6 testified that he had the same arrangements with Patty Hyypas, Johanna Hyypas, and Vearil,<sup>12</sup>  
7 and that he did, in fact, reimburse their contributions.<sup>13</sup>

8           Foley was asked about his understanding of the Act's contribution limits and disclosure  
9 requirements at the time of the reimbursements, testifying:

10           Q.     Did you understand that there was like a maximum amount of  
11                 donations a person could make [to the Committee]?

12           A.     Yes.

13           Q.     What did you understand that to be?

14           A.     \$7,500.

15           Q.     And did you make the max donation?

16           A.     I did.

17           ....

18           Q.     And, Mr. Foley, so you are maxed out at [\$]7,500. Did you want  
19                 to make more contributions to the campaign?

20           A.     Yes.

21           Q.     Did you arrange with other people to make contributions to the  
22                 campaign?

23           A.     Yes.

24           ....

25           Q.     Mr. Foley, did you think you were allowed to do this?

26           A.     No.

<sup>10</sup> Transcript of Record at 179-82, *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014) (Doc. 158) ("*Rowland* Transcript").

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 181.

<sup>13</sup> *Id.* at 215 ("Q: Did you, in fact, reimburse your sister and her daughter for these contributions? A: Yes."); MOI with Brian Foley on Feb. 25, 2014 (Feb. 27, 2014) ("Mr. Foley was asked about campaign contributions made by his sister, Patty, and her daughter, Johanna, and Mr. Foley stated he gave them the money to contribute. . . . Mr. Foley was asked about campaign contributions by Jeremy Vearil . . . . Mr. Foley stated he gave Jeremy the money to contribute to his wife's campaign. . . . Mr. Foley stated he had a deal with Mr. Lewis to contribute to his wife's campaign.").

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1 Q. Were any of these payments reported to the FEC?

2 A. No.<sup>14</sup>

3 On cross-examination, defense counsel further questioned Foley about his reimbursements and  
4 asked, "So did you know that you were engaging in federal criminal wrongdoing when you did  
5 this?" Foley responded "Yes."<sup>15</sup>

6 In 2012, the Act prohibited an individual from making contributions to a candidate  
7 which, in the aggregate, exceeded \$2,500 per election.<sup>16</sup> The Act further provides that no person  
8 shall make a contribution in the name of another or knowingly permit his name to be used to  
9 effect such a contribution, and that no person shall knowingly accept a contribution in the name  
10 of another.<sup>17</sup> This provision proscribes both "false name" contributions and "straw donor" or  
11 "conduit" contributions.<sup>18</sup>

12 Here, Foley's sworn testimony indicates that, after reaching his own contribution limit to  
13 the Committee, he arranged for the Hyypas, Vearil, and Lewis to make additional contributions  
14 to his wife's campaign totaling \$30,000.<sup>19</sup> Foley told investigators and testified at trial that he  
15 made prior arrangements to reimburse each of them for their respective contributions to the  
16 Committee, and later followed through with those reimbursements.<sup>20</sup> By financing the

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<sup>14</sup> *Id.* at 179-82.

<sup>15</sup> *Id.* at 215.

<sup>16</sup> 52 U.S.C. § 30116(a).

<sup>17</sup> 52 U.S.C. § 30122.

<sup>18</sup> *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

<sup>19</sup> *Rowland* Transcript at 180-82, 213-18.

<sup>20</sup> *Id.* at 215;

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1 contributions attributed to the Hyyppas, Vearil, and Lewis, Foley made excessive contributions  
2 in the names of others.<sup>21</sup>

3 Despite his sworn testimony, Foley disputes the allegation in his response to the  
4 Commission. He states that there is "no information to suggest that any of the individuals  
5 referenced did not voluntarily choose to contribute, or that they would not have contributed even  
6 if Foley did not make gifts to them."<sup>22</sup> However, the voluntariness of the conduits' contributions  
7 does not vitiate the prior agreement that Foley would reimburse them and Foley's subsequent  
8 payments to that effect.<sup>23</sup> By pre-arranging to reimburse the Hyyppas, Vearil, and Lewis, Foley  
9 established himself the "true source" of their subsequent contributions to the Committee.<sup>24</sup>

10 Moreover, it appears that Foley's conduct may have been knowing and willful.<sup>25</sup> A  
11 violation of the Act is considered knowing and willful if the "acts were committed with full  
12 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>26</sup>

<sup>21</sup> Foley contributed \$2,500 to the Committee on June 9, 2011, and an additional \$5,000 on June 16, 2011. Because he thereby contributed the maximum, every additional contribution attributed to Foley is in excess of the limits established under 52 U.S.C. § 30116(a).

<sup>22</sup> Foley Resp. ¶ 3 (Feb. 16, 2016).

<sup>23</sup> See, e.g., *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015).

<sup>24</sup> *Id.* Foley also asserts that there is no information to show that "the contributions made by these individuals came solely out of funds from Foley." Foley Resp. ¶ 3. Given that Foley does not dispute the information that he reimbursed the conduits, his response suggests that he did not fully reimburse the conduits; however, Foley has not qualified his statements that he provided these four individuals with the funds to make contributions and has not denied that he fully reimbursed the conduits. In the alternative, Foley may be emphasizing that he did not advance the funds, but instead reimbursed the conduits. Nevertheless, the courts and Commission have repeatedly held that an agreement to reimburse conduits — and subsequent reimbursement — has the same effect as advancing funds to an intermediary, and that in each case, the individual who reimburses his conduits is the "true source" of the contribution. See *O'Donnell*, 608 F.3d at 550-51; see also e.g., MUR 6223 (St. John); MUR 5948 (Critical Health Systems); MUR 5849 (Bank of America); MUR 5453 (Giordano, *et al.*).

<sup>25</sup> See 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>26</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976); see also *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va. 2013) (holding that the "knowing and willful" standard does not require a showing that the respondent had knowledge of the specific statute or regulation allegedly violated, just that the respondent "acted voluntarily and was aware that his conduct was unlawful").

1 In this matter, Foley told the court that he was aware of the applicable contribution limits and  
2 that he nonetheless sought to make additional contributions to the Committee.<sup>27</sup> Foley further  
3 testified that he knew this to be a violation of federal law and that he sought to evade detection.<sup>28</sup>

4 Based on this information, we recommend the Commission find reason to believe Brian  
5 Foley knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making  
6 contributions in the names of four individuals, and in doing so made an excessive contribution to  
7 the Committee totaling \$30,000.<sup>29</sup>

8 **B. Foley Made, and Wilson-Foley and the Committee Accepted, an Excessive**  
9 **Contribution in Violation of 52 U.S.C. § 30116(a) and (f) by Conveying**  
10 **\$500,000 in Separately Held Assets**

11 During the Rowland trial, Foley testified that he made a \$500,000 gift to his wife for use  
12 in her campaign. On direct examination, Foley testified, "I understood I could give my wife  
13 money directly which she could contribute, but in terms of my contribution to the campaign, I  
14 understood I was maxed out at \$7,500."<sup>30</sup> During cross-examination, he continued:

15 A. I told Lisa when she was going to run for Congress that I would  
16 contribute half a million dollars. . . . \$500,000.  
17 Q. I have no interest in probing into —  
18 A. No, it's okay.

<sup>27</sup> Rowland Transcript at 179-80.

<sup>28</sup> *Id.* at 215.

<sup>29</sup> The available information does not indicate whether Wilson-Foley or the Committee knew that Foley made the contributions in the names of the Hyypas, Vearil, or Lewis, and we believe it would not be an efficient use of Commission resources — particularly given the impending statute of limitations — to investigate this issue further. Accordingly, we make no recommendation as to their receipt of these funds.

We also make no recommendations as to the conduits. The Commission has previously found reason to believe as to conduits who (1) not only actively participated in the conduit scheme, but also recruited others to participate, and (2) public officials who participated in the scheme, but ultimately took no further action as to conduits who were merely subordinates/employees. *See, e.g.* MUR 5871 (Noe); MUR 5666 (MZM). Here there is no information to suggest that the conduits recruited others to participate. Although Foley testified that his sister, Patricia Hyypa, contacted Foley and suggested the reimbursement scheme, at least as to herself, *see Rowland Transcript* at 214 ("she called me. . . . She said — she suggested it, yes, and I agreed to it."), we do not believe an investigation into Patricia Hyypa's potential liability would be an efficient use of Commission resources.

<sup>30</sup> Rowland Transcript at 179-80.





1 information to indicate that these assets were “enhance[d]” by “marital efforts” or “used for  
2 marital purposes.”

Federal candidates may make unlimited contributions from “personal funds” to their own campaigns;<sup>36</sup> however, candidates’ family members are subject to the limitations of the Act under Section 30116(a)<sup>37</sup> and candidates and their committees may not accept contributions from family members in excess of those limits.<sup>38</sup> Committees must also report contributions from candidates’ family members in the same manner as all other contributions.<sup>39</sup> “Personal funds” include amounts derived from assets that, under applicable state law, at the time the individual became a candidate, the candidate had a legal right of access to or control over, and with respect to which the candidate had a legal and rightful title or an equitable interest,<sup>40</sup> as well as jointly owned assets.<sup>41</sup> With respect to the latter, a candidate may make contributions from assets owned jointly with a spouse equal to his or her share in the assets.<sup>42</sup> If no specific share is specified, the candidate’s share is deemed to be half the value of the property.<sup>43</sup>

Here, however, Foley testified at trial that he and his wife have separate assets and that he transferred \$500,000 of his own assets to her to contribute to her campaign.<sup>44</sup> He testified that

36 11 C.F.R. § 110.10.

<sup>37</sup> 52 U.S.C. § 30116(a). The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *Buckley v. Valeo*, 424 U.S. 1, 51 n.59 (1976) ("Although the risk of improper influence is somewhat diminished in the case of large contribution from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors.").

38 52 U.S.C. § 30116(f).

<sup>39</sup> *Id.* § 30104(b).

<sup>40</sup> 11 C.F.R. § 100.33(a).

<sup>41</sup> *Id.* § 100.33(c).

<sup>42</sup> *Id.* § 100.33(c)(1).

<sup>43</sup> *Id.* § 100.33(c)(2).

<sup>44</sup> *Rowland* Transcript at 218-19.

1 Wilson-Foley used that money, along with approximately \$500,000 of her own assets, to write  
2 checks to her campaign.<sup>45</sup> Indeed, the Committee's disclosure reports show that, to date,  
3 Wilson-Foley has made contributions to the Committee totaling \$47,756.20 and loans totaling  
4 \$960,000.<sup>46</sup>

5 Given Foley's testimony that his contribution came from separate assets, and that "[his]  
6 checks went to Lisa and then she put [his] money into the campaign,"<sup>47</sup> his conveyance appears  
7 to be an excessive contribution in violation of the Act.<sup>48</sup> Under these circumstances, Wilson-  
8 Foley and, through her, the Committee, appear to have knowingly accepted the excessive  
9 contribution, and failed to appropriately report it. Thus, Wilson-Foley and the Committee  
10 likewise appear to have violated the Act.<sup>49</sup> Accordingly, we recommend the Commission find  
11 reason to believe Brian Foley violated 52 U.S.C. § 30116(a), Lisa Wilson-Foley and the  
12 Committee violated 52 U.S.C. § 30116(f), and the Committee violated 52 U.S.C. § 30104(b).

<sup>45</sup> *Id.* ("[M]y checks went to Lisa and then she put my money into the campaign.").

<sup>46</sup> *See* Appendix. The Committee has not repaid any of Wilson-Foley's loans.

<sup>47</sup> *Rowland* Transcript at 230. In their respective responses, Foley and Wilson-Foley assert that Connecticut law considers individual accounts to be marital assets where "portion(s) of individual accounts are used for marital purposes." Foley Resp. ¶ 8 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)); Wilson-Foley Resp. at ¶ 6 (same).

Connecticut law appears to allow courts broad discretion in classifying and reallocating the property of spouses, allowing courts to consider numerous factors, including the contribution of each party in the acquisition, preservation or appreciation in value of their respective estates. CONN. GEN. STAT. § 46b-81 ("At the time of entering a decree annulling or dissolving a marriage...the Superior Court may assign to either the husband or wife all or any part of the estate of the other"). However, in granting broad discretion, the state does not appear to mandate any particular classification. *See, e.g., De Repentigny v. De Repentigny*, 121 Conn. App. 451, 461-62 (Conn. App. 2010) ("[A]lthough both parties made contributions to the acquisition, maintenance and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater...we will not second-guess the court's decision to grant ownership of [the asset] to the defendant."). Regardless, the available information does not support the conclusion that Foley and Wilson-Foley indeed shared in their use and maintenance of the account in question. To the contrary, Foley testified at trial that their assets are separate and that his \$500,000 conveyance to Wilson-Foley came from his separate account.

<sup>48</sup> *See* MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$1.3 million loan from the spouse's separately held trust account); MUR 5334 (Friends of Marilyn O'Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse's separate business account).

<sup>49</sup> *See* 52 U.S.C. § 30116(f).

**C. Foley's Conduct in Connection with Contributions by His Adult Children**

Finally, the available information indicates that Foley was involved in contributions attributed to three of his adult children, Briana, Brendan, and Conor Foley (collectively, "Foley children"). Specifically, Foley told DOJ investigators that his children hold ownership interests in various companies and that he "made the decision to pay out their dividends so they could make a contribution." At the Rowland trial, Foley further indicated that he had \$7,500 drawn from each of the Foley children's accounts to make contributions to the Committee.<sup>51</sup> He testified that, although the Foley children were not aware of his actions at the time, he had their general approval to do what he wished with the particular accounts involved.<sup>52</sup> The Committee's disclosure reports confirm that Briana, Brendan, and Conor Foley each contributed \$2,500 to the Committee for the convention and the primary and general elections, resulting in total contributions of \$7,500 apiece.<sup>53</sup>

Although these circumstances may warrant additional review by the Commission, we do not believe it is worth the Commission's resources to further investigate the contributions from the Foley children. Because the legal issue presented is less clear than the other apparent violations, and given the need to avoid additional investigative activity in the time available,<sup>54</sup> we make no recommendation with respect to this activity.

<sup>51</sup> *Rowland* Transcript at 218-19.

<sup>52</sup> *Id.*

<sup>53</sup> *See* Appendix. In each case the \$2,500 contributed for the general election was ultimately refunded.

<sup>54</sup> Brendan and Conor Foley's contributions were made on June 13 and 14, 2011, respectively; Briana Foley's contributions were made on September 30, 2011.

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EXHIBIT 1

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3    **V.    RECOMMENDATIONS**

- 4            1.    Find reason to believe Brian Foley knowingly and willfully violated 52 U.S.C.  
5                    §§ 30116(a) and 30122 by making contributions in the names of four individuals;  
6  
7            2.    Find reason to believe Brian Foley violated 52 U.S.C. § 30116(a) by contributing  
8                    \$500,000 to Lisa Wilson-Foley for Congress;  
9  
10          3.    Find reason to believe Lisa Wilson-Foley violated 52 U.S.C. § 30116(f);  
11  
12          4.    Find reason to believe Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in  
13                    her official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f);  
14  
15          5.    Enter into conciliation with Brian Foley, Lisa Wilson-Foley and Lisa Wilson-  
16                    Foley for Congress and Lisa Wilson-Foley in her official capacity as treasurer  
17                    prior to a finding of probable cause to believe;  
18  
19          6.    Approve the attached Conciliation Agreements;

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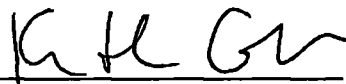
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7. Approve the attached Factual and Legal Analyses; and

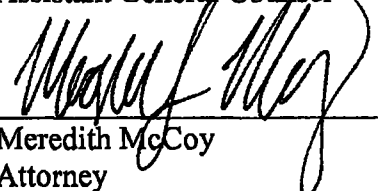
8. Approve the appropriate letters.

Daniel A. Petalas  
Acting General Counsel

4/12/2016  
Date

  
Kathleen Guith  
Acting Associate General Counsel for  
Enforcement

  
Mark Allen  
Assistant General Counsel

  
Meredith McCoy  
Attorney

Attachments:

1. Appendix of Relevant Contributions and Loans to the Committee
2. Factual and Legal Analysis for Brian Foley
3. Factual and Legal Analysis for Lisa Wilson-Foley and Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in her official capacity as treasurer

**FEDERAL ELECTION COMMISSION  
APPENDIX**

**I. Reimbursed Contributions Made in the Names of Others**

Last	First	Date	Amount	Election
Hyypa	Johanna	3/27/2012	\$ 2,500.00	Primary
Hyypa	Johanna	3/27/2012	\$ (2,500.00)	Primary
Hyypa	Johanna	3/27/2012	\$ 2,500.00	Convention
Hyypa	Johanna	3/27/2012	\$ (2,500.00)	Convention
Hyypa	Johanna	3/27/2012	\$ 7,500.00	C/P/G
Hyypa	Johanna	8/22/2012	\$ (2,500.00)	General
Hyypa	Patricia	9/8/2011	\$ 2,500.00	Primary
Hyypa	Patricia	9/8/2011	\$ 2,500.00	Convention
Hyypa	Patricia	3/27/2012	\$ 2,500.00	General
Hyypa	Patricia	8/22/2012	\$ (2,500.00)	General
Lewis	Kenneth	6/9/2011	\$ 500.00	Convention
Lewis	Kenneth	9/28/2011	\$ 1,000.00	Primary
Lewis	Kenneth	9/28/2011	\$ 2,000.00	Convention
Lewis	Kenneth	11/4/2011	\$ 150.00	Primary
Lewis	Kenneth	12/28/2011	\$ 3,850.00	Primary
Lewis	Kenneth	12/28/2011	\$ 2,500.00	General
Lewis	Kenneth	12/28/2011	\$ (2,500.00)	Primary
Lewis	Kenneth	8/22/2012	\$ (2,500.00)	General
Vearil	Jeremy	6/30/2011	\$ 1,000.00	Primary
Vearil	Jeremy	6/30/2011	\$ 2,500.00	Convention
Vearil	Jeremy	12/28/2011	\$ 4,000.00	Primary
Vearil	Jeremy	12/28/2011	\$ 2,500.00	General
Vearil	Jeremy	12/28/2011	\$ (2,500.00)	Primary
Vearil	Jeremy	10/12/2012	\$ (2,500.00)	General
<b>TOTAL PRIOR TO COMMITTEE REFUNDS: \$ 30,000.00</b>				



**II. Contributions and Loans by Lisa Wilson-Foley to Lisa Wilson-Foley for Congress**

<b>Contribution or Loan</b>	<b>Date</b>	<b>Amount</b>	<b>Reported Description</b>
Loan	4/1/2011	\$ 50,000.00	Initial loan
Loan	6/29/2011	\$ 75,000.00	
Loan	6/29/2011	\$ 50,000.00	
Loan	6/30/2011	\$ 25,000.00	
Contribution	9/8/2011	\$ 779.07	In-kind - Lodging
Contribution	9/20/2011	\$ 607.40	In-kind - Lodging
Loan	9/30/2011	\$ 100,000.00	
Loan	12/31/2011	\$ 100,000.00	Loan made by candidate
Contribution	1/24/2012	\$ 823.05	Contribution
Loan	3/30/2012	\$ 110,000.00	Contribution
Loan	4/28/2012	\$ 10,000.00	
Contribution	6/18/2012	\$ 884.15	In-kind contribution/food & beverage
Loan	6/30/2012	\$ 65,000.00	Candidate loan
Loan	7/30/2012	\$ 100,000.00	Candidate loan
Loan	8/1/2012	\$ 100,000.00	Candidate loan
Loan	8/6/2012	\$ 75,000.00	Candidate loan
Loan	8/9/2012	\$ 100,000.00	Candidate loan
Contribution	2/28/2013	\$ 5,000.00	Candidate contribution
Contribution	3/28/2013	\$ 15,000.00	Candidate contribution
Contribution	6/21/2013	\$ 1,200.00	Candidate contribution
Contribution	9/30/2013	\$ 1,500.00	Candidate contribution
Contribution	10/8/2013	\$ 1,500.00	Candidate contribution
Contribution	10/15/2013	\$ 1,500.00	Candidate contribution
Contribution	12/13/2013	\$ 5,000.00	Candidate contribution
Contribution	3/17/2014	\$ 1,500.00	Candidate contribution
Contribution	12/16/2014	\$ 12,463.00	Candidate contribution
<b>TOTAL LOANS:</b>		<b>\$ 960,000.00</b>	
<b>TOTAL CONTRIBUTIONS:</b>		<b>\$ 47,756.67</b>	
<b>TOTAL COMBINED:</b>		<b>\$1,007,756.67</b>	

### III. Contributions by the Foley Children

Last	First	Date	Amount	Election
Foley	Brendan	6/13/2011	\$ 2,500.00	Primary
Foley	Brendan	6/13/2011	\$ 2,500.00	Convention
Foley	Brendan	6/13/2011	\$ 2,500.00	General
Foley	Brendan	8/22/2012	\$ (2,500.00)	General
Foley	Briana	9/30/2011	\$ 2,500.00	Primary
Foley	Briana	9/30/2011	\$ 2,500.00	Convention
Foley	Briana	9/30/2011	\$ 2,500.00	General
Foley	Briana	8/22/2012	\$ (2,500.00)	General
Foley	Conor	6/14/2011	\$ 2,500.00	Primary
Foley	Conor	6/14/2011	\$ 2,500.00	Convention
Foley	Conor	6/14/2011	\$ 2,500.00	General
Foley	Conor	8/22/2012	\$ (2,500.00)	General
TOTAL PRIOR TO COMMITTEE REFUNDS:				\$ 22,500.00

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Brian Foley

MUR: 6566

4 **I. INTRODUCTION**

5 For the reasons discussed below, the Commission finds reason to believe Brian Foley:  
6 (1) knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions  
7 in the names of four individuals, which resulted in an excessive contribution; and (2) violated  
8 52 U.S.C. § 30116(a) by giving Lisa Wilson-Foley, his spouse, \$500,000 to contribute to her  
9 principal campaign committee, Lisa Wilson-Foley for Congress ("the Committee").

10 **II. BACKGROUND**

11 In the course of related criminal proceedings, Foley testified at the September 2014 trial  
12 of former Connecticut Governor John Rowland.<sup>1</sup> Based on Foley's testimony, and additional  
13 information available to the Commission, as discussed in detail below, the Commission notified  
14 Foley as a respondent and gave him the opportunity to respond.<sup>2</sup> Foley responded after a  
15 substantial extension, for which he provided an agreement tolling of the statute of limitations.<sup>3</sup>

16 **III. FACTUAL AND LEGAL ANALYSIS**

17 **A. Foley Knowingly and Willfully Violated 52 U.S.C. §§ 30116(a) and 30122 by**  
18 **Reimbursing Four Individuals for Contributions to the Committee**

19 The available information indicates that Foley reimbursed campaign contributions made  
20 by four individuals: (1) his sister and employee, Patricia Hyypa; (2) his niece, Patricia's  
21 daughter, Johanna Hyypa; (3) his nephew and employee, Jeremy Vearil; and (4) his childhood

<sup>1</sup> *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014).

<sup>2</sup> See Notification to Brian Foley, MUR 6566 (Nov. 5, 2015).

<sup>3</sup> Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Foley) (Dec. 22, 2015) (tolling the statute of limitations for 120 calendar days).

1 friend and employee, Kenneth Lewis. According to the Committee's disclosure reports, the  
2 Hyypas, Vearil, and Lewis each contributed the maximum \$2,500 to the Committee for the  
3 nominating convention and the primary and general elections, resulting in total contributions of  
4 \$7,500 per person.<sup>4</sup> The available information indicates that Foley gave these individuals the  
5 money to make contributions to the Committee.

6 When Foley testified for the government at Rowland's trial, he was asked about the four  
7 contributions. He testified that he had "understandings" with the Hyypas, Vearil, and Lewis,  
8 promising to reimburse each of them if they made contributions to the Committee.<sup>5</sup> With respect  
9 to Lewis, for example, Foley told the court, "I had an understanding that if he donated to Lisa's  
10 campaign that I would make good on it. . . . In some way reimburse him for it."<sup>6</sup> He testified  
11 that he had the same arrangements with Patty Hyypa, Johanna Hyypa, and Vearil,<sup>7</sup> and that he  
12 did, in fact, reimburse their contributions.<sup>8</sup>

13 Foley was asked about his understanding of the Act's contribution limits and disclosure  
14 requirements at the time of the reimbursements, testifying:

15 Q. Did you understand that there was like a maximum amount of  
16 donations a person could make [to the Committee]?

17 A. Yes.

18 Q. What did you understand that to be?

19 A. \$7,500.

20 Q. And did you make the max donation?

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<sup>4</sup> In Connecticut, political parties hold nominating conventions prior to the primary and general elections. Thus, in 2012, when the applicable contribution limit was \$2,500 per election, the maximum contribution per person was \$7,500. With respect to the Hyypas, Vearil, and Lewis, the \$2,500 contributed for the general election was refunded after Wilson-Foley lost the primary election.

<sup>5</sup> Transcript of Record at 179-82, *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014) (Doc. 158) ("Rowland Transcript").

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 181.

<sup>8</sup> *Id.* at 215 ("Q: Did you, in fact, reimburse your sister and her daughter for these contributions? A: Yes.").

1 A. I did.

2  
3 Q. And, Mr. Foley, so you are maxed out at [\$]7,500. Did you want  
4 to make more contributions to the campaign?

5 A. Yes.

6 Q. Did you arrange with other people to make contributions to the  
7 campaign?

8 A. Yes.

9  
10 Q. Mr. Foley, did you think you were allowed to do this?

11 A. No.

12 Q. Were any of these payments reported to the FEC?

13 A. No.<sup>9</sup>

14 On cross-examination, defense counsel further questioned Foley about his reimbursements and  
15 asked, "So did you know that you were engaging in federal criminal wrongdoing when you did  
16 this?" Foley responded "Yes."<sup>10</sup>

17 In 2012, the Act prohibited an individual from making contributions to a candidate  
18 which, in the aggregate, exceeded \$2,500 per election.<sup>11</sup> The Act further provides that no person  
19 shall make a contribution in the name of another or knowingly permit his name to be used to  
20 effect such a contribution, and that no person shall knowingly accept a contribution in the name  
21 of another.<sup>12</sup> This provision proscribes both "false name" contributions and "straw donor" or  
22 "conduit" contributions.<sup>13</sup>

23 Here, the available information indicates that, after reaching his own contribution limit to  
24 the Committee, he arranged for the Hyypas, Vearil, and Lewis to make additional contributions

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<sup>9</sup> *Id.* at 179-82.

<sup>10</sup> *Id.* at 215.

<sup>11</sup> 52 U.S.C. § 30116(a).

<sup>12</sup> 52 U.S.C. § 30122.

<sup>13</sup> *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

1 to his wife's campaign totaling \$30,000.<sup>14</sup> Foley made prior arrangements to reimburse each  
2 conduit for their respective contributions to the Committee, and later followed through with  
3 those reimbursements.<sup>15</sup> By financing the contributions attributed to the Hyypas, Vearil, and  
4 Lewis, Foley made excessive contributions in the names of others.<sup>16</sup>

5 Despite his sworn testimony, Foley disputes the allegation in his response to the  
6 Commission. He states that there is "no information to suggest that any of the individuals  
7 referenced did not voluntarily choose to contribute, or that they would not have contributed even  
8 if Foley did not make gifts to them."<sup>17</sup> However, the voluntariness of the conduits' contributions  
9 does not vitiate the prior agreement that Foley would reimburse them and Foley's subsequent  
10 payments to that effect.<sup>18</sup> By pre-arranging to reimburse the Hyypas, Vearil, and Lewis, Foley  
11 established himself the "true source" of their subsequent contributions to the Committee.<sup>19</sup>

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<sup>14</sup> Rowland Transcript at 180-82, 213-18.

<sup>15</sup> *Id.* at 215.

<sup>16</sup> Foley contributed \$2,500 to the Committee on June 9, 2011, and an additional \$5,000 on June 16, 2011. Because he thereby contributed the maximum, every additional contribution attributed to Foley is in excess of the limits established under 52 U.S.C. § 30116(a).

<sup>17</sup> Foley Resp. ¶ 3.

<sup>18</sup> *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015).

<sup>19</sup> *Id.* Foley also asserts that there is no information to show that "the contributions made by these individuals came solely out of funds from Foley." Foley Resp. ¶ 3. Given that Foley does not dispute the information that he reimbursed the conduits, his response suggests that he did not fully reimburse the conduits; however, Foley has not qualified his statements that he provided these four individuals with the funds to make contributions and has not denied that he fully reimbursed the conduits. In the alternative, Foley may be emphasizing that he did not advance the funds, but instead reimbursed the conduits. Nevertheless, the courts and Commission have repeatedly held that an agreement to reimburse conduits — and subsequent reimbursement — has the same effect as advancing funds to an intermediary, and that in each case, the individual who reimburses his conduits is the "true source" of the contribution. See *O'Donnell*, 608 F.3d at 550-51; see also e.g., MUR 6223 (St. John); MUR 5948 (Critical Health Systems); MUR 5849 (Bank of America); MUR 5453 (Giordano, *et al.*).

1 Moreover, it appears that Foley's conduct may have been knowing and willful.<sup>20</sup> A  
2 violation of the Act is considered knowing and willful if the "acts were committed with full  
3 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>21</sup>  
4 In this matter, Foley told the court that he was aware of the applicable contributions limits and  
5 that he nonetheless sought to make additional contributions to the Committee.<sup>22</sup> Foley further  
6 testified that he knew this to be a violation of federal law and that he sought to evade detection.<sup>23</sup>

7 Based on this information, the Commission finds reason to believe Brian Foley  
8 knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions in  
9 the names of four individuals, and in doing so made an excessive contribution to the Committee  
10 totaling \$30,000.

11 **B. Foley Made an Excessive Contribution in Violation of 52 U.S.C. § 30116(a)**  
12 **by Conveying \$500,000 in Separately-Held Assets**

13 During the Rowland trial, Foley testified that he made a \$500,000 gift to Lisa Wilson-  
14 Foley, his spouse, for use in her campaign. On direct examination, Foley testified, "I understood  
15 I could give my wife money directly which she could contribute, but in terms of my contribution  
16 to the campaign, I understood I was maxed out at \$7,500."<sup>24</sup> During cross-examination, he  
17 continued:

18 A. I told Lisa when she was going to run for Congress that I would  
19 contribute half a million dollars. . . . \$500,000.

<sup>20</sup> See 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>21</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976); see also *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va. 2013) (holding that the "knowing and willful" standard does not require a showing that the respondent had knowledge of the specific statute or regulation allegedly violated, just that the respondent "acted voluntarily and was aware that his conduct was unlawful.").

<sup>22</sup> *Rowland* Transcript at 179-80.

<sup>23</sup> *Id.* at 215.

<sup>24</sup> *Id.* at 179-80.

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1 Q. I have no interest in probing into —  
2 A. No, it's okay.  
3 Q. Your private — I'm about to ask a question and I'm prefacing it by  
4 saying I'm not interested in your private financial affairs with your  
5 wife. But are there joint assets?  
6 A. No.  
7 Q. So they're separate.  
8 A. Our assets are separate, yeah.  
9 Q. So you were going to contribute a half a million bucks?  
10 A. I did. I put [\$]500,000 into Lisa's campaign for Congress.  
11 Q. And did Lisa make a substantial contribution on her own?  
12 A. I think she put in about \$500,000 as well.  
13 Q. In what form?  
14 A. Just wrote checks to the campaign. And my checks went to Lisa  
15 and then she put my money into the campaign.<sup>25</sup>

16 The Committee's disclosure reports to the Commission show that, to date, Wilson-Foley has  
17 made contributions to the Committee totaling \$47,756 and loans totaling \$960,000.<sup>26</sup>

18 In response to the Commission's notifications, Foley asserts that his direct testimony  
19 shows that he lacked "the requisite intent to establish violations of the Act."<sup>27</sup> He also asserts  
20 that there is no information to show that "Lisa Wilson-Foley's contributions to her own  
21 campaign came solely and exclusively out of funds provided to her by Foley."<sup>28</sup> He further cites  
22 Connecticut law for the proposition that "where marital efforts were expended to maintain or  
23 enhance individual accounts, and where portion(s) of individual accounts are used for marital  
24 purposes, the accounts are marital assets" and state that this entitles Wilson-Foley "as much right  
25 to their use as Foley himself."<sup>29</sup> However, Foley has not provided any additional information

<sup>25</sup> *Id.* at 228-29.

<sup>26</sup> Wilson-Foley made her first loan to the Committee on April 1, 2011; she made her most recent contribution on December 16, 2014.

<sup>27</sup> Foley Resp. ¶ 7.

<sup>28</sup> *Id.* ¶ 8.

<sup>29</sup> *Id.* ¶ 8 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).



1 about the source of the \$500,000 or any information to indicate that these assets were  
2 “enhance[d]” by “marital efforts” or “used for marital purposes.”

3 As referenced above, in 2012 the Act prohibited persons from making contributions in  
4 excess of \$2,500 to any candidate and his or her authorized political committee with respect to  
5 any election for federal office.<sup>30</sup> The term “contribution” includes “any gift, subscription, loan,  
6 advance, or deposit of money or anything of value made by any person for the purpose of  
7 influencing any election for Federal office.”<sup>31</sup>

8 Federal candidates may make unlimited contributions from their “personal funds” to their  
9 campaigns.<sup>32</sup> “Personal funds” of a candidate means the sum of all of the following: (a) assets;  
10 (b) income; and (c) jointly owned assets.<sup>33</sup> A candidate’s assets are amounts derived from any  
11 asset that, under applicable state law, at the time the individual became a candidate, the candidate  
12 had legal right of access to or control over, and with respect to which the candidate had legal and  
13 rightful title or an equitable interest.<sup>34</sup> A candidate’s jointly owned assets are amounts derived  
14 from a portion of assets that are owned jointly by the candidate and the candidate’s spouse as  
15 follows: the portion of assets that is equal to the candidate’s share of the asset under the

<sup>30</sup> 52 U.S.C. § 30116(a)(1)(A).

<sup>31</sup> *Id.* § 30101(8)(A)(i).

<sup>32</sup> 11 C.F.R. § 110.10.

<sup>33</sup> *Id.* § 100.33. A candidate’s income consists of income received during the current election cycle, of the candidate, including: salary and other earned income that the candidate earns from bona fide employment; income from the candidate’s stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments; bequests to the candidate; income from trusts established before the beginning of the election cycle; income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary; gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and proceeds from lotteries and similar games of chance. *Id.* § 100.33(b).

<sup>34</sup> *Id.* § 100.33(a).

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1 instrument of ownership or conveyance; or if no specific share is indicated by an instrument of  
2 ownership or conveyance, the value of one-half of the property.<sup>35</sup>

3 Although federal candidates may contribute unlimited personal funds to their campaigns,  
4 their family members are subject to the Act's contribution limits.<sup>36</sup> The Commission has  
5 enforced the contribution limit against family members who made excessive contributions to the  
6 candidate's campaign in the form of asset transfers to the candidate.<sup>37</sup>

7 Here, Foley testified at trial that he and his wife have separate assets and that he  
8 transferred \$500,000 of his own assets to her to contribute to her campaign.<sup>38</sup> He testified that  
9 Wilson-Foley used that money, along with approximately \$500,000 of her own separate assets,  
10 to write checks to her campaign.<sup>39</sup> Indeed, the Committee's disclosure reports show that, to date,  
11 Wilson-Foley has made contributions to the Committee totaling \$47,756.20 and loans totaling  
12 \$960,000.<sup>40</sup>

13 Because it appears Foley transferred funds to Wilson-Foley after she became a candidate,  
14 the transferred funds do not qualify as Wilson-Foley's assets under 11 C.F.R. § 100.33(a).  
15 Because the funds he transferred were separate and not held in a joint account, the transferred

<sup>35</sup> *Id.* § 100.33(c).

<sup>36</sup> The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

<sup>37</sup> *See, e.g.*, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse's separately-held trust account to the couple's joint account to be loaned to the candidate's campaign and transferring \$400,000 from the spouse's separately-held trust account directly to the candidate's campaign); MUR 5334 (O'Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse's separate business account).

<sup>38</sup> *Rowland* Transcript at 228-29.

<sup>39</sup> *Id.* ("[M]y checks went to Lisa and then she put my money into the campaign").

<sup>40</sup> The Committee has not repaid any of Wilson-Foley's loans.

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1 funds were not jointly owned assets under 11 C.F.R. § 100.33(c). Given Foley's testimony that  
2 he made the contribution from separately held assets, and that "[his] checks went to Lisa and  
3 then she put [his] money into the campaign,"<sup>41</sup> the \$500,000 at issue does not appear to qualify  
4 as Wilson-Foley's personal funds. Instead, Foley's conveyance appears to be an excessive  
5 contribution in violation of the Act. Accordingly, the Commission finds reason to believe Brian  
6 Foley violated 52 U.S.C. § 30116(a) by giving Wilson-Foley a \$500,000 contribution from his  
7 separately-held assets.

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<sup>41</sup> *Rowland* Transcript at 230. In his response, Foley asserts that Connecticut law considers individual accounts to be marital assets where "portion(s) of individual accounts are used for marital purposes." Foley Resp. ¶ 8 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

Connecticut law appears to allow courts broad discretion in classifying and reallocating the property of spouses, allowing courts to consider numerous factors, including the contribution of each party in the acquisition, preservation or appreciation in value of their respective estates. CONN. GEN. STAT. § 46b-81 ("At the time of entering a decree annulling or dissolving a marriage...the Superior Court may assign to either the husband or wife all or any part of the estate of the other"). However, in granting broad discretion, the state does not appear to mandate any particular classification. *See, e.g., De Repentigny v. De Repentigny*, 121 Conn. App. 451, 461-62 (Conn. App. 2010) ("[A]lthough both parties made contributions to the acquisition, maintenance and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater...we will not second-guess the court's decision to grant ownership of [the asset] to the defendant."). Regardless, the available information does not support the conclusion that Foley and Wilson-Foley indeed shared in their use and maintenance of the account in question. To the contrary, Foley testified at trial that their assets are separate and that his \$500,000 conveyance to Wilson-Foley came from his separate account.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Lisa Wilson-Foley and MUR: 6566  
4 Lisa Wilson-Foley for Congress and  
5 Lisa Wilson-Foley in her official  
6 capacity as treasurer

7 **I. INTRODUCTION**

8 For the reasons discussed below, the Commission finds reason to believe Lisa Wilson-  
9 Foley, in her individual capacity, and Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in  
10 her official capacity as treasurer ("the Committee")<sup>1</sup> violated 52 U.S.C. § 30116(f) by accepting  
11 \$500,000 from Brian Foley, her spouse, and that the Committee also violated 52 U.S.C.  
12 § 30104(b) by failing to properly report the receipt.

13 **II. BACKGROUND**

14 In the course of related criminal proceedings, Brian Foley testified at the trial of former  
15 Connecticut Governor John Rowland.<sup>2</sup> Based on Foley's testimony and additional information  
16 available to the Commission, as discussed in detail below, the Commission notified Wilson-  
17 Foley as a respondent in her individual capacity and gave her the opportunity to respond.<sup>3</sup>  
18 Wilson-Foley responded after a substantial extension, for which she provided an agreement  
19 tolling the statute of limitations.<sup>4</sup> Previously, at the conclusion of the criminal proceedings, the  
20 Commission found reason to believe the Committee knowingly and willfully violated 52 U.S.C.

<sup>1</sup> Wilson-Foley was a candidate for the U.S. House of Representatives in Connecticut's Fifth Congressional District in 2012. Wilson-Foley lost the August 14, 2012 Republican primary election. Wilson-Foley was named as treasurer of the Committee on April 14, 2014. See Amended Statement of Org., Lisa Wilson-Foley for Congress (Apr. 14, 2014).

<sup>2</sup> *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014).

<sup>3</sup> Notification to Lisa Wilson-Foley, MUR 6566 (Nov. 5, 2015).

<sup>4</sup> Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Wilson-Foley) (Dec. 20, 2015) (tolling the statute of limitations for 120 calendar days); Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Lisa Wilson-Foley for Congress) (Feb. 16, 2016) (same).

1 §§ 30116(f) and 30104(b) by accepting and failing to report excessive in-kind contributions of  
2 \$35,000 in payments to Rowland for work on Wilson-Foley's campaign during the 2012 election  
3 cycle.<sup>5</sup>

4 **III. FACTUAL AND LEGAL ANALYSIS**

5 During the Rowland trial, Brian Foley testified that he made a \$500,000 gift to his wife  
6 for use in her campaign. On direct examination, Foley testified, "I understood I could give my  
7 wife money directly which she could contribute, but in terms of my contribution to the  
8 campaign, I understood I was maxed out at \$7,500."<sup>6</sup> During cross-examination, he continued:

9 A. I told Lisa when she was going to run for Congress that I would  
10 contribute half a million dollars. . . . \$500,000.

11 Q. I have no interest in probing into —

12 A. No, it's okay.

13 Q. Your private — I'm about to ask a question and I'm prefacing it by  
14 saying I'm not interested in your private financial affairs with your  
15 wife. But are there joint assets?

16 A. No.

17 Q. So they're separate.

18 A. Our assets are separate, yeah.

19 Q. So you were going to contribute a half a million bucks?

20 A. I did. I put [\$]500,000 into Lisa's campaign for Congress.

21 Q. And did Lisa make a substantial contribution on her own?

22 A. I think she put in about \$500,000 as well.

23 Q. In what form?

24 A. Just wrote checks to the campaign. And my checks went to Lisa  
25 and then she put my money into the campaign.<sup>7</sup>

26 The Committee's disclosure reports to the Commission show that, to date, Wilson-Foley has  
27 made contributions to the Committee totaling \$47,756 and loans totaling \$960,000.<sup>8</sup>

<sup>5</sup> Factual and Legal Analysis (Lisa Wilson-Foley for Congress), MUR 6566 (Jul. 20, 2015).

<sup>6</sup> Transcript of Record at 179-80, *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014) (Doc. 158) ("Rowland Transcript").

<sup>7</sup> *Id.* at 228-29.

<sup>8</sup> Wilson-Foley made her first loan to the Committee on April 1, 2011; she made her most recent contribution on December 16, 2014.

1 In response to the Commission's notifications, Wilson-Foley asserts that there is no  
2 information to show that "Lisa Wilson-Foley's contributions to her own campaign came solely  
3 and exclusively out of funds provided to her by Foley."<sup>9</sup> She further cites Connecticut law for  
4 the proposition that "where marital efforts were expended to maintain or enhance individual  
5 accounts, and where portion(s) of individual accounts are used for marital purposes, the accounts  
6 are marital assets" and state that this entitles Wilson-Foley "as much right to their use as Foley  
7 himself."<sup>10</sup> However, Wilson-Foley has not provided any additional information about the  
8 source of the \$500,000 or any information to indicate that these assets were "enhance[d]" by  
9 "marital efforts" or "used for marital purposes."

10 In 2012, the Act prohibited persons from making contributions to any candidate and his  
11 or her authorized political committee with respect to any election for federal office which, in the  
12 aggregate, exceeded \$2,500.<sup>11</sup> The term "contribution" includes "any gift, subscription, loan,  
13 advance, or deposit of money or anything of value made by any person for the purpose of  
14 influencing any election for Federal office."<sup>12</sup>

15 Federal candidates may make unlimited contributions from their "personal funds" to their  
16 campaigns.<sup>13</sup> "Personal funds" of a candidate means the sum of all of the following: (a) assets;  
17 (b) income; and (c) jointly owned assets.<sup>14</sup> A candidate's assets are amounts derived from any

<sup>9</sup> Wilson-Foley Resp. ¶ 6 (Feb. 16, 2016).

<sup>10</sup> *Id.* ¶ 6 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

<sup>11</sup> 52 U.S.C. § 30116(a)(1)(A).

<sup>12</sup> *Id.* § 30101(8)(A)(i).

<sup>13</sup> 11 C.F.R. § 110.10.

<sup>14</sup> *Id.* § 100.33. A candidate's income consists of income received during the current election cycle, of the candidate, including: salary and other earned income that the candidate earns from bona fide employment; income from the candidate's stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments; bequests to the candidate; income from trusts established before the

1 asset that, under applicable state law, at the time the individual became a candidate, the candidate  
2 had legal right of access to or control over, and with respect to which the candidate had legal and  
3 rightful title or an equitable interest.<sup>15</sup> A candidate's jointly owned assets are amounts derived  
4 from a portion of assets that are owned jointly by the candidate and the candidate's spouse as  
5 follows: the portion of assets that is equal to the candidate's share of the asset under the  
6 instrument of ownership or conveyance; or if no specific share is indicated by an instrument of  
7 ownership or conveyance, the value of one-half of the property.<sup>16</sup>

8 Although federal candidates may contribute unlimited personal funds to their campaigns,  
9 their family members are subject to the Act's contribution limits.<sup>17</sup> The Commission has  
10 enforced the contribution limit against family members who made excessive contributions to the  
11 candidate's campaign in the form of asset transfers to the candidate.<sup>18</sup>

12 Here, Foley testified at trial that he and his wife have separate assets and that he  
13 transferred \$500,000 of his own assets to her to contribute to her campaign.<sup>19</sup> He testified that

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beginning of the election cycle; income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary; gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and proceeds from lotteries and similar games of chance. *Id.* § 100.33(b).

<sup>15</sup> *Id.* § 100.33(a).

<sup>16</sup> *Id.* § 100.33(c).

<sup>17</sup> The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

<sup>18</sup> *See, e.g.,* MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse's separately-held trust account to the couple's joint account to be loaned to the candidate's campaign and transferring \$400,000 from the spouse's separately-held trust account directly to the candidate's campaign); MUR 5334 (O'Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse's separate business account).

<sup>19</sup> *Rowland Transcript* at 228-29.

1 Wilson-Foley used that money, along with approximately \$500,000 of her own separate assets,  
2 to write checks to her campaign.<sup>20</sup> Indeed, the Committee's disclosure reports show that, to date,  
3 Wilson-Foley has made contributions to the Committee totaling \$47,756.20 and loans totaling  
4 \$960,000.<sup>21</sup>

5 Because it appears Foley transferred funds to Wilson-Foley after she became a candidate,  
6 the transferred funds do not qualify as Wilson-Foley's assets under 11 C.F.R. § 100.33(a).  
7 Because the funds he transferred were separate and not held in a joint account, the transferred  
8 funds were not jointly owned assets under 11 C.F.R. § 100.33(c).

9 Given Foley's testimony that he made the contribution from separately held assets and  
10 that "[his] checks went to Lisa and then she put [his] money into the campaign,"<sup>22</sup> the \$500,000  
11 at issue does not appear to qualify as Wilson-Foley's personal funds. Instead, Foley's  
12 conveyance appears to be an excessive contribution in violation of the Act. Under these  
13 circumstances, Wilson-Foley and, through her, the Committee, appear to have accepted the  
14 excessive contribution, and failed to appropriately report it. Accordingly, the Commission finds

<sup>20</sup> *Id.* ("[M]y checks went to Lisa and then she put my money into the campaign").

<sup>21</sup> The Committee has not repaid any of Wilson-Foley's loans.

<sup>22</sup> *Rowland* Transcript at 230. In her response, Wilson-Foley asserts that Connecticut law considers individual accounts to be marital assets where "portion(s) of individual accounts are used for marital purposes." Wilson-Foley Resp. at ¶ 6 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

Connecticut law appears to allow courts broad discretion in classifying and reallocating the property of spouses, allowing courts to consider numerous factors, including the contribution of each party in the acquisition, preservation or appreciation in value of their respective estates. CONN. GEN. STAT. § 46b-81 ("At the time of entering a decree annulling or dissolving a marriage...the Superior Court may assign to either the husband or wife all or any part of the estate of the other"). However, in granting broad discretion, the state does not appear to mandate any particular classification. *See, e.g., De Repentigny v. De Repentigny*, 121 Conn. App. 451, 461-62 (Conn. App. 2010) ("[A]lthough both parties made contributions to the acquisition, maintenance and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater...we will not second-guess the court's decision to grant ownership of [the asset] to the defendant."). Regardless, the available information does not support the conclusion that Foley and Wilson-Foley indeed shared in their use and maintenance of the account in question. To the contrary, Foley testified at trial that their assets are separate and that his \$500,000 conveyance to Wilson-Foley came from his separate account.



- 1 reason to believe Lisa Wilson-Foley and the Committee violated 52 U.S.C. § 30116(f), and the
- 2 Committee violated 52 U.S.C. § 30104(b).

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